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ABSTRACT

Several examples are offered of situations in which, in order to be in compliance with one law or regulation, the district was in violation of another. Legislation cited which has caused such conflicts includes (1) the Auxiliary Services Act, (2) Title I, and (3) mandates to use the urban mass transit system for transporting children to school. Problems that arise as a result of funding sources are also discussed. Two examples of this sort are highlighted: (1) conflicts regarding the distribution of Federal subsidies and citizen-voted tax levies between public and parochial schools; and (2) conflicts in personnel policies because of the different requirements of local and Federal funding sources. (GC)

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TEACHER PERSONNEL POLICIES

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TEACHER PERSONNEL ISSUES

Perhaps it will be helpful to preface this discussion of teacher personnel issues by providing a brief description of the school district context from which they are viewed. The Cincinnati School District includes a geographic area of about 90 square miles, with an estimated population of 460,000. The public school enrollment is slightly over 57,000; it has been declining steadily since 1967. Professional staff numbers about 3,600. Student population includes about 60% minority students. Seventeen alternative schools are included in the system; among them are an Applied Arts Academy, Bilingual Program Academies, the City-Wide Learning Community, and the Cincinnati Academy of Physical Education.

In planning its budget for fiscal 1980 (January 1 - December 31), the school system faced a deficit of 6.2 million dollars. Extensive cutbacks were planned and many were instituted during the period January to June. The proposed cuts included 54 (20%) administrative positions, 154 teaching positions, security and instructional aides, closing of nine schools, reduction in school plant and secretarial positions and others. On June 3, 1980, Cincinnati passed a 7.43 mill levy, the first to pass since 1969. Passage permitted reinstatement of aides, teachers and provided funding for pay increases, but most other cuts will continue.

The federal regulations of ESEA Title I, Title IVC, Public Law 94-142, and Vocational Education have an impact on local personnel policies and planning. In addition, OCR and EEOC policies play vital roles with respect to personnel policies. In consulting with the district's personnel officers it seems that the intent of the legislation in the case of federal policies is clear. There are one or two exceptions. The language of P.L. 94-142 "otherwise qualified for the position...handicapping conditions not being sufficient cause for non-consideration" does not lead to clear interpretation.

On the whole, however, the intent is clear.

State legislation which impacts on teacher personnel policies includes the fair employment practice laws, termination proceedings and certification requirements.

Perhaps the most difficult aspect of implementing state legislation focuses on the Auxiliary Services Act, which requires that public schools administer state funds to parochial schools. Each parochial school is allocated a certain sum of money based on their pupil enrollment. That allocation is given to the public school district in which the parochial school is physically located and the public school administration must administer and monitor the parochial school expenditure of that money. It can be spent for personnel, equipment, and so on, but it cannot be used to foster any kind of religious education. When we sign our assurance that we are in compliance with federal law, one of the assurances says that all the agencies we serve are also in compliance with federal law. This situation puts the public schools in a policing type of situation which can prove awkward in our relations with our parochial schools.

We had an incident a few years ago where a parochial school with declining enrollment decided to merge with another parochial school, but it was not the adjacent parochial school. The adjacent school was integrated, and the two schools which merged were all white. The news media picked up the situation and rather forced us into taking action. I thus ordered all services to the school to cease until we could get a reading from the Courts. The case went through the State Court system, and each Court ruled in favor of the parochial school; thus ordering us to continue services lest we lose our own state aid. Our attorneys advised us, however, that since we were involved in desegregation litigation, and since the case was in Federal Court (and a constitutional issue was involved), that therefore a Federal Court would have to rule. This finally occurred and the Federal Court ruled in favor of the parochial school i.e. that their

action was not intentionally segregative. We gladly permitted the services to flow once again, but the Archdiocese was incensed over what they believed was over-reaction on our part. We lost considerable good will with our Catholic citizens who make up a significant part of our population. The alineation of the Catholic vote means sure loss of our levies. Only recently has some confidence and trust been restored.

Had the public schools not been in a position where we were the policing agent, as required by state law, we would have avoided the mess and the expense.

Efforts to persuade the state legislators that something should be done about this situation have been fruitless thus far. The parochial school interests in Ohio are very strong--we are in last place among the states in terms of public school support and first place in terms of parochial school support. It is an uphill fight to keep public education, especially urban public education, in a viable position. Our state legislature, like many others, is dominated by rural interests.

The Auxiliary Services Act creates many personnel problems as well. Staff hired under that act are in the employ of the public school district. That means that they are employed through our personnel office, paid from our payroll, represented by our union, and receive all the salary and benefits received by any other member of our staff. The consequence of that is that these people who are legally our employees working within a parochial school may be making considerably more money than parochial school staff not hired under Auxiliary Services aid. In practice, we let the parochial school principals pick the people they want from among qualified candidates we have identified, just as we send people out for our own principals to interview. That works well until you get in a cutback situation such as we were in the past year. Under union contract, the people who are non-renewed are those with the least seniority, other things being equal. Part of

our cut-back plan was to reduce our counseling staff by sixteen positions. As we looked at the counselors, the ones with least seniority were working in the parochial schools. Thus under our contract, they would be the first to go and be replaced by sixteen of our (public school) counselors with more seniority. We would have replaced counselors whom they had handpicked, in many cases people already on their staff who had been moved into those positions for funding. The result of the plan was great consternation in the parochial schools, bad press for the public schools, and loss of more good will with our Catholic citizens. Fortunately, passage of our levy restored our counselors and resolved the problem.

Another problem under the Auxiliary Services Act is staff appraisal. We try hard to get the parochial school principals to enter into the appraisal process along with our supervisory staff. Typically they do not like to do that and our pressuring them to do so is another source of conflict.

Additionally, administering Auxiliary Aid funds is a cost to the public school system. We do get 3% administrative cost off the top which we put in our general fund, but we can document that it costs us more to administer these programs. Still, the more important thing is that our being put in the situation of constant conflict with parochial schools on issues over which we have little or no control erodes public support for public schools.

The law which mandates this state of affairs has been in effect off and on for about ten years. It has been challenged in the courts a number of times, and there was a period of two years when there was no action at all until the Supreme Court finally ruled that it is constitutional.

Certainly the Auxiliary Services Aid mandate is not the only one that causes problems. Not only in that act, but also in special education, in state compensatory

programs, and in Title I programs, there are conflicts with local mandates or guidelines. For example, in order to get special education or vocational education funding from the state you must meet their requirements or lose your funding. These education requirements, such as class size, often are out of line with district policies.

Programs such as Title I of ESEA which are tightly regulated force us into creating a school system within a school system and that causes problems. Title I teachers have small classes, instructor aides, materials and equipment, paid in-service training opportunities and time to plan - all of which are not available to "general fund" teachers who teach next door. Add to this the strong advocacy position of Parent Advisory Councils and you end up with a well insulated system, highly resistant to change, and under the protection of a separate set of rules. Our state compensatory program produces similar stresses and strains.

Title I creates another conflict through the comparability requirement. We have to establish that we are spending the same amount of general fund dollars in the Title I schools as we are in non-Title I schools, and we have to establish that we are supplementing and not supplanting with Title I funds.

In Cincinnati we have been promoting alternative schools, I think very effectively and with good results in terms of reducing racial isolation in our city. But when we locate alternative schools in downtown areas we remove that school from the Title I eligibility it would otherwise have. For instance, we put a Montessori program in what had been a regular Title I school for fifteen years. That program has drawn enough students of higher income parents to make it ineligible for Title I. Montessori is a very expensive program requiring many people. In cases like this we spend many more general fund dollars which we are not spending in Title I schools, so our dollars allocated to non-Title I schools become greater than those allocated to Title I schools and we end

up out of comparability. This happens year after year and we find ourselves having to spend a few hundred thousand dollars of general fund money at midyear and spend it in Title I schools in order to be comparable, even though our motive was to improve our racial balance, not to spend more dollars on non-Title I schools. Our very success works against us. It amounts to two federal policies working against each other -- one that says we must integrate our schools and one that says we must follow the rules and regulations for Title I comparability.

Another example of two federal policies in conflict with each other is the mandate to desegregate versus the Urban Mass Transit Authority regulations regarding the use of federal subsidies to bus companies. This is not exactly within the realm of teacher personnel policies, but it certainly is a policy implementation problem for us. For years we have had a contract with our local bus company to provide transportation for our students. We take the subsidy the state gives us for transporting children and turn it over to Metro, and they in turn give us passes for the students. In order to accommodate us, they have set up quite a few special bus routes. Now federal law dictates something to the effect that you cannot bus children past an adjacent school. That law is reflected in the Urban Mass Transit Authority guidelines which say that a local bus company may not transport children unless that bus line is a public route. Theoretically, any citizen can get on the routes Metro has set up for us, but in practice they do not. Now the bus company is telling us that they may not be able to serve all our students. So if we have a student on one end of town who wants to go to an alternative school across town, and whose going there would promote our racial balance, we may not be able to serve the transportation needs of that child, precisely because of federal regulations.

Over the years we have had to develop a specialized staff with the skills to deal with the government bureaucracies, both federal and state, expecially in terms of getting clarification on the guidelines. The policies are not always communicated clearly, but we have learned by now who the people are who are accountable for those things and we have learned to be assertive about picking up the phone and getting whatever information we need in order to comply. I can imagine that, in a small school system where that specialized staff does not exist, this could be a terrible problem. They simply would not have the time to establish all the contacts that you need to have in order to interact successfully with the government agencies.

One of our greatest needs is staff development. We have virtually no general fund allocation for staff development because of our tight budget. What is provided for is nowhere near as comprehsnsive as we need in Cincinnati. We get some help from a federally-funded Desegregation Assistance Center, but only when it can be shown to be related to desegregation. Our Teacher Center provides some training, but it has more potential energy than kinetic energy by virtue of being under-funded.

We experience another kind of staff-assignment, teacher personnel conflict related to federal and general fund sources of funding for staff. Personnel hired for special projects often were employed from outside the district for two reasons: we didn't have the specialized talents needed in our present staff and in-house staff didn't appreciate the insecurity associated with "soft" money funding. Ironically, "hard" money funding (general fund) has turned out to be more precarious than "soft" special project funding. The conflict arises when general fund-supported staff with more tenure are being reduced and people such as research and development specialists are being retained. Obviously, the longer tenured staff feel that they should be able to "bump"

the other staff, in spite of the differences that exist in skill levels to conduct the special projects. The tension around this issue is increasing. Thus far, we have been able to justify our need to have individuals with special skills in leadership positions and individuals who have been highly successful in securing funding for special projects. Given our current financial situation, the special projects provide our major opportunity for rejuvenating the school system.

Our biggest problem in policy implementation regarding teacher tenure is the principals' lack of time to do effective evaluations. That problem becomes larger each year as the budget gets tighter and administrative staff is reduced. The principals complain of so many meetings and so much paper work that they have little time for classroom observation and teacher appraisal.

Many teachers do not complete their probationary periods, partly because salaries are better in other occupations, especially for women who now have opportunities they never had before. Even if compensation is adequate, many people perceive teaching as an increasingly difficult job and they simply do not want the hassle. In Ohio we have a state minimum salary schedule. Typically, only the very poor rural districts use that schedule, but because of our financial dilemma in Cincinnati, we were within $10 of that schedule up until last January. What is happening also is that our staff is getting older and more experienced and thus more costly; we do not have the attrition among experienced staff that we once did. Our average teacher now has twelve years of experience. That fact is creating a major financial problem for us and is leading us to explore the possibilities of early retirement benefits. There can be more than a $10,000 differential between a beginning teacher and, let's say, a 25-30 year teacher.

Voted-on-increases in property taxes cannot be relied upon to support public education. Our estimate is that about one of five in the voting public in Cincinnati

has children in public schools (compared to about 1 of 2 ten years ago). The rest are people whose children are grown or who have no children in school or whose children go to the parochial schools, and, especially in the face of inflation, they have no perceived stake in public education. My belief is that states are going to have to take a more vital role in funding education and it is going to have to be done by mandate.

The lack of support for public education is not helped by the struggle for control between unions and other professional teachers organizations. There are some very different perceptions of what is and is not teacher responsibility. Added to that, grievance procedures have become so elaborate that, at least in some cases, most principals or appraisers are reluctant to be critical, even with good documentation. The procedures are spelled out in such meticulous detail that there are all kinds of ways to get the whole thing thrown out.

If I could change anything in the federal and state policy-making arena, I suppose I would eliminate inconsistency. However, I cannot help but despair on that score because consistency does not seem possible in an environment where there is an obvious conflict of values. The judicial arm of the government carries out what they see as the constitutional mandates with respect to such things as desegregation while the legislative arm passes laws which prevent busing students. By the nature of our democracy, each is doing what they think is the right thing. Within their framework they are doing the right thing. The legislative bodies reflect the will of the people they represent; the judiciary reflects what they believe to be the will of the Consitution. Each of these is right in the context in which they operate, but they are diametrically opposed when it comes down to operating a school district. Unless we want to turn our back on the ideal of participative democracy, and I do not, I cannot see any reconciliation of this situation

anytime soon.

I do think that we would do well to emphasize our similarities and commonalities as a people rather than our difference, but I think we tend to pay more attention to the differences (and thereby create more conflict) when the economy is hurting as it is now. Maybe if we could require exposure to a foreign land as a part of growing up in America, we would better appreciate the blessings of our country, with all its problems.